

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LUELLA SMITH,
on behalf of plaintiff and a class,

Plaintiff,

vs.

PORTFOLIO RECOVERY
ASSOCIATES, L.L.C.;

Defendant.

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Case No.: 15-cv-6551

PLAINTIFF’S MOTION FOR CLASS CERTIFICATION

Plaintiff respectfully requests that this Court enter an order determining that this Fair Debt Collection Practices Act ("FDCPA") action may proceed as a class action against defendant Portfolio Recovery Associates, L.L.C. ("PRA").

Plaintiff seeks to certify a class defined as follows: (a) all individuals with addresses in Indiana, Illinois or Wisconsin (b) to whom defendant sent a collection letter (c) in Spanish (d) without an English version (e) which notice was sent at any time during a period beginning one year prior to the filing of this action and ending 20 days after the filing of this action.

Plaintiff furthers requests that Edelman, Combs, Lattuner & Goodwin, LLC be appointed counsel for the class.

In support of this motion, plaintiff states:

NATURE OF THE CASE

1. This case arises out of defendant’s unlawful practice of sending consumers collection letters in Spanish, unaccompanied by an English version. The material in Spanish includes disclosures required by 15 U.S.C. §1692e.

2. On information and belief, the class is so numerous that joinder of all members is not practicable. Exhibit A is a form document, with bar coded addresses and return addresses (required by the Postal Service to obtain a discount when 500 or more similar pieces of mail are sent

at the same time).

3. There are questions of law and fact common to the class members, which common questions predominate over any questions relating to individual class members. The predominant common question is whether defendant's practice violates the FDCPA.

4. Plaintiff's claim is typical of the claims of the class members. All are based on the same factual and legal theories.

5. Plaintiff will fairly and adequately represent the class members. Plaintiff has retained counsel experienced in class actions and FDCPA litigation. (Exhibit B).

6. A class action is superior for the fair and efficient adjudication of this matter, in that:

- a. Individual actions are not economically feasible.
- b. Members of the class are likely to be unaware of their rights;
- c. Congress intended class actions to be the principal enforcement mechanism under the FDCPA.

7. Plaintiff is filing this motion at this time because the Seventh Circuit ruled in *Damasco v. Clearwire Corp.*, 662 F.3d 891, 894-97 (7th Cir. 2011), that a pre-certification motion offer of full individual relief to named plaintiffs moots the remaining class action portion of a case. In support of its ruling, the Seventh Circuit reasoned that if the plaintiffs had filed a motion for class certification at the beginning of the litigation, before the defendant had made such an offer of complete relief, the case would not have been rendered moot, and the plaintiffs would have been able to pursue class relief. *Id.* at 896. The Seventh Circuit further reasoned that "[i]f the parties have yet to fully develop the facts needed for certification, then they can further ask the district court to delay its ruling to provide time for additional discovery or investigation." *Id.*

8. Plaintiff will file a supporting memorandum after discovery is obtained.

WHEREFORE, plaintiff respectfully requests that this Court enter an order determining that this action may proceed as a class action.

Respectfully submitted,

s/ Daniel A. Edelman
Daniel A. Edelman

Daniel A. Edelman
Cathleen M. Combs
James O. Lattuner
Francis R. Greene
EDELMAN, COMBS, LATTURNER & GOODWIN, LLC
20 South Clark Street, Suite 1500
Chicago, IL 60603-1824
(312) 739-4200
(312) 419-0379 (FAX)
Email address for service: courtecl@edcombs.com

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CERTIFICATE OF SERVICE

I, Daniel A. Edelman, hereby certify that on July 28, 2015, I caused to be filed the foregoing document with the Clerk of the Court using the CM/ECF System, and shall cause to be served, as soon as service may be effectuated, a true and accurate copy of such filing via process server upon the following:

Portfolio Recovery Associates, L.L.C.
C/o registered agent
Illinois Corporation Service Co.
801 Adlai Stevenson Drive
Springfield, IL 62703

s/ Daniel A. Edelman
Daniel A. Edelman